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HUMAN RIGHTS COMMITTEE

Sixty-first session

SUMMARY RECORD OF THE 1616th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 October 1997, at 10.30 a.m.

Chairperson: Ms. CHANET

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GE.97-18676 (E)

The meeting was called to order at 10.40 a.m.

OPENING OF THE SESSION

1. The CHAIRPERSON declared open the sixty-first session of the Human Rights Committee. She welcomed Mr. Zakhia from Lebanon, who had been elected a member of the Committee, and invited him to make the solemn declaration under article 38 of the Covenant.

2. Mr. ZAKHIA undertook to perform his functions impartially and conscientiously.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/126)

3. The agenda (CCPR/C/126) was adopted.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

4. Mrs. ROBINSON (United Nations High Commissioner for Human Rights) said that the Committee had played a leading and often pioneering role in developing procedures and working methods that had helped to make the treaty system as a whole more effective and had been important, in the first instance, in promoting the effective implementation of the Covenant itself. She had in mind in particular its practice of adopting concluding observations after the consideration of each State party's report, asking States parties to submit special reports when warranted by circumstances, and the hard work involved in the elaboration of the Committee's very valuable general comments. She was also familiar with the Committee's impressive work under the First Optional Protocol, which constituted by far the best known and the most highly developed of the existing United Nations human rights complaints procedures, and with the Committee's efforts to strengthen the impact of its decisions through the follow-up procedure it had developed over the past few years.

5. The international human rights treaty system was clearly at the core of the United Nations human rights programme, and its role was becoming ever more essential as the number of accessions and ratifications continued to increase. Sadly, however, the fact that human rights were receiving greater international recognition must not obscure the underlying reality of massive and widespread violations of human rights and the intense human suffering which marked the current era. Thus, on the eve of the fiftieth anniversary of the Universal Declaration of Human Rights and the stocktaking opportunity provided by the fifth anniversary of the adoption of the Vienna Declaration and Programme of Action, the challenge to the international community and to every human being to be more effective in promoting and ensuring respect for human rights was greater than ever.

6. In addressing that challenge, her intention was to take a balanced and broad approach which emphasized civil and political rights, economic, social and cultural rights, and the right to development, as well as women's and children's rights. While in New York in September 1997, she had met with a large number of government leaders, foreign ministers and regional groups, to whom she had explained that approach, which had been well received. She had also had the chance to see at first hand how deeply the Secretary-General was

personally interested in human rights and how much importance he attached to them in the context of his overall responsibilities in promoting peace and security. One issue of immediate concern to him and to her continued to be the difficult situation in the Democratic Republic of the Congo and, more generally, in the Great Lakes region as a whole. It was to her mind essential, while addressing the economic and social rights of the people of the region, to break the cycle of impunity when it came to such massive violations of human rights.

7. The current situation in Algeria was another cause for major concern. She had received information from the chairpersons of several treaty bodies, the special rapporteurs concerned and other mechanisms of the Commission on Human Rights, and had asked them for their opinions so as to have an assessment of the situation by United Nations human rights experts.

8. Another development, of a different nature but still troubling, was the announcement on 25 August 1997 that the Government of the Democratic People's Republic of Korea had decided to withdraw from the Covenant. Such an action was unprecedented in international human rights law and clearly raised serious questions as to its conformity with existing international law. On the basis of a preliminary review, it appeared that in the absence of appropriate provisions in the Covenant for termination, withdrawal or denunciation, the State party's attempt to do so could only be considered in the light of article 56 of the 1969 Vienna Convention on the Law of Treaties. She understood that the Committee would consider that issue at its current session, and she looked forward to receiving its views on the matter, which she would study jointly with the Office of Legal Affairs in New York.

9. In the months ahead, efforts would have to be intensified to disseminate information about the human rights instruments more widely at the international, national and local levels, and to promote universal adherence to the Covenant, its Optional Protocols and the other treaties, and to uphold the integrity of the human rights treaty system.

10. In closing, she reiterated her pledge of strong support for the Committee's important work. In the exercise of her functions, she intended to keep herself closely informed of its activities and would ensure that it received all the support it needed, in particular, in establishing a system that would lead to more effective implementation of the recommendations made by the Committee, and indeed by all the treaty bodies.

11. The CHAIRPERSON thanked the High Commissioner for Human Rights for her interest in the Committee's work. The Committee welcomed her arrival at the head of the human rights secretariat, which was going through a difficult crisis. The Committee had made every possible sacrifice in that regard, giving up certain languages for its work, reducing the number of its Working Groups and modifying its methods of work. Its task was nonetheless arduous; it hoped therefore that it could count on the invaluable aid of the secretariat and preserve that essential tool, which moreover worked. In that respect, too, the Committee was particularly pleased with the arrival of the High Commissioner for Human Rights.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

12. The CHAIRPERSON drew the attention of the members of the Committee to the programme of work, which had been submitted to them in the form of a table, in an informal document in English without a symbol; she invited them to comment on it.

13. Mr. KLEIN said he had made progress in drafting a general comment on article 12, but would not submit a text to the Committee until its March 1998 session. The Committee would therefore not have a draft general comment to consider at the present session.

14. Ms. EVATT asked what the consideration of methods of work under article 40, which had been scheduled for Wednesday, 22 October, would entail.

15. The CHAIRPERSON said that, since Mr. Klein would not submit his draft general comment until the spring 1998 session, the meeting of Wednesday, 29 October, which had been set aside for general comments, could be devoted to communications. In reply to Ms. Evatt, she said that the methods of work under article 40 covered such subjects as the situation created by the decision of the Democratic People's Republic of Korea, which had just been mentioned by the High Commissioner. In addition, she would report to the Committee on developments since its previous session, and the Committee would also consider the report of the meeting of chairpersons of treaty bodies and the draft guidelines for members, which had been prepared by Mr. Bhagwati. The reports of the six States parties would be considered in the order indicated in the programme of work.

16. Mr. POCAR asked if the report on the meeting of chairpersons of treaty bodies would be available before the end of the session so that the Committee could consider it during the last week.

17. Mr. TISTOUNET (Secretary of the Committee) said that the report existed but was to be revised before being submitted to the General Assembly. However, the secretariat could make an unrevised version available to the Committee.

18. At its July 1997 session, the Committee had taken a series of decisions calling on nine States parties to submit their initial reports, which were overdue, as soon as possible. Four reports had been scheduled for the present session - those of Cambodia, Grenada, Israel and The former Yugoslav Republic of Macedonia - and five for the following session: Albania, Angola, Benin, Côte d'Ivoire and Seychelles. The secretariat had immediately sent a note verbale to the permanent missions concerned and had received two replies, one from Israel and the other from The former Yugoslav Republic of Macedonia. The latter country, whose permanent representative would address the Committee directly, wished consideration of its report to be postponed until the March 1998 session, and Israel had announced that its report would also be ready for that session.

19. Mr. BUERGENTHAL said that since nothing had been received from the other States parties, he wondered whether they should not be asked specifically for a reply to the request contained in the secretariat's note verbale.

20. The CHAIRPERSON said that the secretariat would provide an update on the various countries of which information had been requested. She took it that the Committee wished to adopt the proposed programme of work.

21. It was so decided.

22. Lord COLVILLE (Chairman/Rapporteur of the Working Group) said that the Working Group, composed of Mr. Bhagwati, Mr. El Shafei, Ms. Evatt, Mr. Yalden and himself, had been instructed to deal both with periodic reports and with communications, a very arduous task in which it had benefited from the outstanding assistance of members of the secretariat. It had drawn up lists of issues for the six countries whose reports were to be considered by the Committee. Those lists were shorter than in previous sessions. The Working Group had deliberately left certain questions aside, even though it was well aware that they were not without importance, since the Committee barely had two meetings for the consideration of each report. The Working Group had also considered nine communications, three of which, having been declared admissible, would not be sent back to the plenary Committee. It had prepared draft views on four communications and had recommended declaring inadmissible another communication which the Committee should consequently consider. It was also transmitting to the Committee, for consideration, a ninth communication, the peculiar history of which called for the opinions of all members.

23. The Working Group had also dealt with various documents. Shortly after its consideration of the periodic report of Georgia, the Committee had received a letter from the Under-Secretary of the National Council on Human Rights informing it that she had been designated by President Shevardnadze to monitor implementation of the decrees intended to strengthen the exercise of fundamental rights. It was now clear that that was an official letter, and it would be appropriate for the Chairperson to thank the Georgian Government and take note of the appointment. At its previous session the Committee had also received a document from the local authorities of the Department of Antioquia in Colombia, contesting some of the concluding observations adopted at the fifty-ninth session concerning that country's periodic report. Some members of the Committee had directly received another document, which seemed to have originated with the Colombian Government. Neither of those two documents could be considered official, and it did not seem necessary for the bureau to take any action.

24. That was not the case with the letter sent by Mr. Joinet, a member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, about the importance of the remedies of habeas corpus and amparo. Mr. Joinet had suggested that the Committee should consider revising its general comment on article 4 of the Covenant, a suggestion which the Working Group had approved. The bureau should inform Mr. Joinet accordingly.

25. The Working Group had also had before it a document prepared by Ms. Evatt on follow-up to the recommendations contained in the concluding observations made by the Committee after its consideration of periodic reports. Given that the task force set up by the Chairperson was responsible for that matter among others, it would be preferable to await the outcome of its deliberations before beginning to consider the question.

26. The Working Group had considered at length the draft guidelines prepared by Mr. Bhagwati for members and had considerably amended them; the amended draft, which bore the symbol CCPR/C/61/GUI, should be considered as having received the support of the five members of the Working Group. In principle the five also approved the idea of giving the Committee guidelines, as long as they did not deviate unnecessarily from those which might be applicable to other treaty bodies. The Working Group therefore considered that if they received the approval of all members of the Committee, the "guidelines for members" should be transmitted to the next meeting of chairpersons of treaty bodies, in order to ensure their compatibility with any other guidelines. The members of the Committee would note that the guidelines differed as between the consideration of communications and the consideration of periodic reports. They were much stricter in the former case; in the latter case, much attention was devoted to the question of the participation of Country Rapporteurs and "thematic" rapporteurs during the consideration of State party reports.

27. The Working Group had also considered a document on the cost of organizing sessions in Geneva and in New York.

28. The CHAIRPERSON invited the Committee to consider the draft lists of issues prepared by the Working Group.

29. The Committee had decided to begin with Senegal.

30. Lord COLVILLE (Chairman/Rapporteur of the Working Group), introducing the list of issues (CCPR/C/61/Q/SEN/2) to be taken up in connection with the consideration of the fourth periodic report of Senegal, said that in that list, as in all the other lists, emphasis was placed on concrete measures that had been taken to bring legislation into conformity with the Covenant and on the results of any inquiries that might have been conducted.

Question 1

31. Mr. POCAR noted that a general question was asked at the very beginning of the list about measures "taken to bring the laws and their enforcement into line with the Covenant, in conformity with the previous concluding observations of the Committee". He was afraid that that might give rise to an interminable treatise on legislative and regulatory measures adopted in all areas. It would be better to call the attention of the delegation of Senegal, through a footnote or otherwise, to the need to outline the manner in which it had followed up the Committee's concluding observations on each of the issues dealt with.

32. Mr. YALDEN said he understood Mr. Pocar's objection but explained that the Working Group had wished expressly to ask for more details on concrete measures in order to avoid having the delegation repeat all the legislative provisions on each issue without giving any concrete fact, as it had done during consideration of the third periodic report.

33. After an exchange of views in which Ms. EVATT, Mr. BHAGWATI, the CHAIRPERSON, Mr. EL SHAFEI, Mr. PRADO VALLEJO and Lord COLVILLE took part, the CHAIRPERSON said that a consensus seemed to have emerged to delete question 1 as contained in the text, on the understanding that a sentence

would be added, either at the end of the text or in a footnote, asking the delegation for specific details on follow-up to the recommendations contained in the Committee's concluding observations.

34. It was so decided.

Questions 2 to 4

35. Questions 2 to 4 were adopted without amendment.

Questions 5 and 6

36. The CHAIRPERSON said that a clear distinction should be made between issues specifically falling under article 9 (liberty and security of person and pre-trial detention) and those relating to post-trial detention. The last sentence in question 6 should therefore be moved to the end of question 5, and question 6 should be entitled, "Conditions of imprisonment and detention (art. 10)".

37. The proposal was adopted.

38. Questions 5 and 6, as amended, were adopted.

Questions 7 and 8

39. Mr. SCHEININ suggested reorganizing the two questions. The first point under question 8 would be more appropriate placed in question 7, and the Committee could add a question on the effects of the prohibition of abortion on maternal mortality. Also in question 8, the reference to the pertinent articles of the Covenant should be expanded. Female genital mutilation and the prohibition of abortion were in fact relevant to articles 3, 6 and 7.

40. Mr. YALDEN supported Mr. Scheinin's suggestion and proposed repeating, in the second sentence in question 7, the wording that had been adopted by the Working Group but did not appear in the draft, which would mean replacing the words "sectors in which discrimination persists" by "all discrimination".

41. The CHAIRPERSON said she understood that all members of the Committee wished to recast questions 7 and 8 and to adopt the amendments proposed by Mr. Scheinin and Mr. Yalden. She would ask Lord Colville to draft a new text to replace the current questions 7 and 8, on the understanding that the two questions might or might not be merged into a single paragraph, depending on what appeared to be the most advisable course.

42. It was so decided.

Questions 9 to 12

43. Questions 9 to 12 were adopted without amendment.

Question 13

44. Mr. PRADO VALLEJO said it was not so much the practice regarding censorship that interested the Committee as the effect it might have on the exercise of article 19 of the Covenant.

45. Lord COLVILLE (Chairman/Rapporteur of the Working Group) proposed adding the following words: "... and their effect on the exercise of article 19 of the Covenant".

46. Lord Colville's proposal was adopted.

Questions 14 and 15

47. Questions 14 and 15 were adopted without amendment.

Question 16

48. Mr. PRADO VALLEJO suggested that, in the Spanish text, the unsuitable word "posturas" should be replaced by the accepted term "observaciones".

49. Question 16, as amended by Mr. Prado Vallejo, was adopted.

Question 17

50. Question 17 was adopted without amendment.

51. The CHAIRPERSON said that although most of the questions on the list had been adopted as to their substance, there remained matters of form to settle, namely, the recasting of questions 7 and 8 and of the existing question 1. She asked Lord Colville to finalize the list with the help of the secretariat, along the lines indicated by the Committee.

52. The list of issues (CCPR/C/61/Q/SEN/2) to be taken up in connection with the consideration of the fourth periodic report of Senegal, as amended, was adopted.

53. The CHAIRPERSON invited the members of the Committee to consider the list of issues (CCPR/C/61/Q/JAM/3) to be taken up in connection with the consideration of the second periodic report of Jamaica.

54. Lord COLVILLE (Chairman/Rapporteur of the Working Group) drew the attention of members to the fact that the questions on the list basically covered subjects which the Committee had already raised on many previous occasions during its consideration of communications sent by Jamaicans under the First Optional Protocol. However, the list contained several questions on recent developments, in particular, the so-called "Tivoli Gardens" incident and the prison disturbances of August 1997, which were mentioned in paragraphs 2 and 6 respectively. The disturbances, which had caused 16 victims among the prisoners, had started following a decision by the prison authorities to distribute condoms to prisoners, which had led to a strike by prison staff. He pointed out that under Jamaican criminal legislation homosexual acts, including acts in private, constituted a criminal offence.

55. He also drew attention to the importance of question 9, which referred to an extremely serious situation, namely, the fact that the Jamaican authorities had decided in August 199? to reduce the period of time during which the consideration of a communication by the Human Rights Committee had suspensive effect. Under the new provisions, if the Committee had not considered a given communication within six months, the death penalty would be carried out. That was a critical decision, to which the Committee must react.

56. The CHAIRPERSON endorsed Lord Colville's views; the two issues raised in question 9 were of great importance, particularly in view of the large number of communications addressed to the Committee by Jamaican nationals.

57. She invited the members of the Committee to adopt the list of issues (CCPR/C/61/Q/JAM/3) to be taken up in connection with the consideration of the second periodic report of Jamaica paragraph by paragraph.

Questions 1 to 3

58. Questions 1 to 3 were adopted without amendment.

Question 4

59. The CHAIRPERSON proposed that a reference to the corresponding paragraphs of the report (CCPR/C/42/Add.15) should be added.

60. The proposal was adopted.

Question 5

61. Ms. EVATT proposed asking what was the average length of pre-trial detention.

62. The proposal was adopted.

Question 6

63. Mr. PRADO VALLEJO considered that the Committee should not simply ask the Jamaican authorities what were the factors and difficulties impeding implementation of article 10 of the Covenant, but should also ask what concrete measures had been taken to resolve the very serious problem of conditions of detention. The first question in paragraph 6 should consequently be reformulated.

64. The proposal was adopted.

65. Mr. LALLAH suggested that, logically, question 6 should be placed immediately after question 3.

66. The proposal was adopted.

Questions 7 and 8

67. The CHAIRPERSON asked why the Working Group had focused its questions only on the provisions of article 14, paragraphs 3 (d) and 5, of the Covenant.

68. Lord COLVILLE (Chairman/Rapporteur of the Working Group) explained that the Working Group had been careful to highlight the most frequently occurring aspects of the Committee's concerns with regard to article 14, namely, how the procedure worked in practice and the right to defence. Lawyers in London who dealt with questions concerning Jamaicans regularly encountered two major difficulties: convicted prisoners were ineligible for legal aid in submitting appeals to the Privy Council or filing constitutional motions, and defence attorneys assisting their clients under the legal aid system often lacked the required competence to carry out their tasks efficiently. Furthermore, the considerable slowness of the trial and appeal procedures in Jamaica should be borne in mind. Given the time limits imposed on the consideration of State party reports, the Working Group had felt it would be better to concentrate on those difficulties, which were as serious as they were frequent.

69. Mr. BHAGWATI proposed adding a reference in question 7 to article 14, paragraph 3 (c), of the Covenant; the Committee had often noted during its consideration of communications from Jamaica that the criminal trial procedure was extremely lengthy in that State party.

70. Mr. Bhagwati's proposal was approved.

71. Mr. KLEIN proposed that question 10, which also dealt with the implementation of article 14 of the Covenant, should follow questions 7 and 8 of the list of issues.

72. Mr. LALLAH supported Mr. Klein's proposal, but wondered whether it might not be useful to specify which paragraphs or subparagraphs of article 14 of the Covenant were envisaged in question 10.

73. Lord COLVILLE (Chairman/Rapporteur of the Working Group) said he also supported Mr. Klein's proposal. In connection with Mr. Lallah's point, he said that question 10 would specify that the envisaged paragraphs of article 14 were paragraphs 1 and 3 (g).

74. Replying to a point raised by Mr. PRADO VALLEJO, Mr. BHAGWATI proposed that the first question in paragraph 8 should be amended to read: "Is adequate legal aid available to all accused at all stages?" That would make the question broader in scope.

75. Mr. Bhagwati's proposal was approved.

76. The CHAIRPERSON announced that questions 7, 8 and 10, which all related to article 14 of the Covenant, would be regrouped and that that section, the last in part I of the list of issues, would be restructured so as to allow the delegation of Jamaica to reply in a more rigorous fashion to the questions asked by members of the Committee.

Question 9

77. Question 9 was adopted without amendment.

Questions 11 to 15

78. Questions 11 to 15 were adopted without amendment.

79. The list of issues (CCPR/C/61/Q/JAM/3) to be taken up in connection with the consideration of the second periodic report of Jamaica, as amended, was adopted.

80. The CHAIRPERSON invited the Committee to consider the list of issues (CCPR/C/61/Q/IRQ/3) to be taken up in connection with the consideration of the fourth periodic report of Iraq.

81. Lord COLVILLE (Chairman/Rapporteur of the Working Group) said that the Working Group had endeavoured to draft the list of issues to be taken up in connection with the consideration of the fourth periodic report of Iraq as precisely as possible, in order to encourage the State party to describe the real situation, without seeking to make excuses for the Government's shortcomings with regard to its obligations under the Covenant.

Questions 1 to 4

82. Questions 1 to 4 were adopted without amendment.

Question 5

83. Mr. KLEIN, referring to the penultimate question, which concerned torture and cruel, inhuman or degrading treatment, considered that reference should be made not only to article 7 of the Covenant, but also to article 18; it should also be asked whether medical personnel, who were apparently compelled to be present during the imposition of certain penalties, could exercise their right of conscientious objection.

84. Ms. EVATT, Ms. GAITAN DE POMBO and Lord COLVILLE agreed.

85. Mr. LALLAH proposed that a reference to article 5, paragraph 1, of the Covenant should be added.

86. Question 5, as amended by Mr. Klein and Mr. Lallah, was adopted.

Questions 6 to 10

87. Questions 6 to 10 were adopted without amendment.

Question 11

88. Mr. KLEIN proposed that question 11 should appear after question 3, since the execution of prisoners who had apparently been given only summary trials and deprived of all right of appeal was more relevant to article 6 of the Covenant, which concerned the right to life.

89. Mr. Klein's proposal was approved.

90. Question 11 was adopted.

Questions 12 to 17

91. Questions 12 to 17 were adopted without amendment.

92. The list of issues (CCPR/C/61/Q/IRQ/3) to be taken up in connection with the consideration of the fourth periodic report of Iraq, as amended, was adopted.

93. The CHAIRPERSON invited the Committee to consider the list of issues (CCPR/C/61/Q/SUD/2) to be taken up in connection with the consideration of the fourth periodic report of Sudan.

94. Lord COLVILLE (Chairman/Rapporteur of the Working Group) said that in preparing the list of issues to be taken up in connection with the consideration of the fourth periodic report of Sudan, the Working Group had attempted to select the most important points on which members of the Committee could question the delegation, not merely levelling criticism, but rather highlighting the positive aspects. It thereby hoped to encourage the delegation to describe the concrete measures taken by the Government to put an end to the many civil conflicts raging in Sudan, the cessation of which was naturally an essential condition for respect for the rights set forth in the Covenant.

95. The CHAIRPERSON announced that at its next meeting the Committee would continue the consideration and adoption of the list of issues concerning Sudan.

The meeting rose at 12.55 p.m.

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HUMAN RIGHTS COMMITTEE

Sixty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1617th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 October 1997, at 3 p.m.

Chairperson: Ms. CHANET

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ORGANIZATIONAL AND OTHER MATTERS (continued)

* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1617/Add.1.

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GE.97-18693 (E)

The meeting was called to order at 3.20 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

List of issues to be taken up in connection with the consideration of the fourth periodic report of Sudan (CCPR/C/75/Add.2) (continued)
(CCPR/C/61/Q/SUD/2)

1. The CHAIRPERSON, recalling that Lord Colville, as Chairman/Rapporteur of the pre-sessional working group, had introduced the list of issues at the previous meeting, invited the Committee to begin its consideration of that list.

2. Mr. POCAR pointed out that the title was incorrect: it should read "second periodic report", not "fourth periodic report", of Sudan.

3. The title, as amended, was adopted.

Part I

Question 1

4. Mr. KLEIN observed that the issue addressed, namely the continuing impact of the armed conflicts on the exercise of human rights in Sudan, was extremely broad. It might be preferable to focus instead on the impact of the state of emergency on the enjoyment of human rights. The references to articles 6, 7, 9, 10, 14 and 27 should be deleted, as those articles dealt with specific human rights violations not necessarily linked to the armed conflicts; only the citation of article 4 should be retained.

5. It was so decided.

6. Question 1, as amended, was adopted.

Question 2

7. Question 2 was adopted.

Questions 3 and 4

8. The CHAIRPERSON suggested that the order of the questions should be reversed.

9. It was so decided.

10. In response to a comment by the CHAIRPERSON, Lord COLVILLE suggested that the title of question 3 should be revised to read "Training of the armed forces (articles 6 and 7)".

11. It was so decided.

12. Questions 3 and 4, as amended, were adopted.

Question 5

13. Question 5 was adopted.

Question 6

14. Mr. BUERGENTHAL proposed that a reference to torture should be included in the title to avoid giving the impression that cruel, inhuman or degrading punishment was not a form of torture.

15. It was so decided.

16. Question 6, as amended, was adopted.

Questions 7 (A) and (B) and 8

17. Mr. SCHEININ said that, in connection with article 7 of the Covenant, the Committee should request information on legislative and other measures taken to eliminate the practice of female genital mutilation, which was widespread in Sudan. In connection with the right to life as guaranteed in article 6, the Committee should request data on maternal mortality, the rate of which was very high in Sudan, and information on measures adopted by the Government to reduce its incidence, particularly those relating to contraception and the prohibition of abortion.

18. Article 8 of the Covenant, dealing with slavery, was cited under question 8, entitled "Situation of children in armed conflicts". Yet slavery afflicted not just children, but also women. It might therefore be appropriate to incorporate a reference to the abduction and slavery of women in question 8.

19. Ms. EVATT endorsed those comments, supported the proposal to include a reference to women in question 8, and suggested that in question 7 (A) mention should be made of female genital mutilation and maternal mortality.

20. Mr. BUERGENTHAL supported the observations made by Mr. Scheinin.

21. Lord COLVILLE, responding to a query from the CHAIRPERSON about exactly how to incorporate Mr. Scheinin's suggestions in the list of issues, said he fully agreed that female genital mutilation and maternal mortality were extremely important issues. The working group had been mindful of the limited time available for consideration of the report of Sudan, however, and had tried to avoid overburdening the list of issues with specific questions which could, in any case, be raised during the discussion. A new question 7 (C) could certainly be added, but he was fearful that there would not be sufficient time to do justice to each issue.

22. The CHAIRPERSON considered that Lord Colville's concerns were valid ones and suggested that question 7 (B), which requested information on the number of women in the political and social life of the country, should be replaced by a question relating to slavery.

23. Mr. YALDEN said the Chairperson's suggestion was acceptable, but it might also be possible to combine question 7 (B) with the first sentence of question 7 (A). A reference to female genital mutilation and maternal mortality could then be inserted in the second sentence of question 7 (A), where mention was made of "traditional attitudes and inequalities in the laws", and that sentence, together with the final sentence in question 7 (A), could form a separate subparagraph. The end result would be, as at present, two subparagraphs, but they would be better organized.

24. The CHAIRPERSON suggested that it might be more appropriate to include the reference to female genital mutilation and maternal mortality in the first sentence of question 7 (A), after the reference to measures taken to eliminate all areas of legal and de facto discrimination against women. She retained her suggestion regarding the replacement of question 7 (B) by a specific question on slavery.

25. Mr. POCAR and Mr. BHAGWATI supported the replacement of question 7 (B) by a question on slavery.

26. Mr. SCHEININ said he could go along with the Chairperson's suggestions regarding questions 7 (A) and (B), as long as articles 6 and 7 of the Covenant were cited in the title, together with articles 3 and 26. A reference to slavery could simply be inserted in question 8 and the title of that question amended to read "Situation of women and children in armed conflicts".

27. Lord COLVILLE said he fully endorsed Mr. Scheinin's proposal and suggested that the final sentence of question 8 should be revised to read "What steps are being taken to prevent abduction, slavery, and forced conscription and labour of women and children?"

28. It was so decided.

29. Questions 7 (A) and (B) and 8, as amended, were adopted.

Question 9

30. Mr. POCAR suggested that the words "of members" should be deleted.

31. It was so decided.

32. Question 9, as amended, was adopted.

Part II

Questions 10 and 11

33. Questions 10 and 11 were adopted.

Question 12

34. Mr. ZAKHIA suggested that, after the word "judiciary" in the title ("Independence, impartiality and training of the judiciary"), the words "and the justice administration system" should be inserted, since human rights violations often occurred even before an individual's case was brought to court.

35. Lord COLVILLE explained that the question was directed at a number of specific points. First, the Sudanese Government had simply dismissed a great many judges and transferred many others, including all the women judges, from the south to the north. Secondly, the appointment of judges was often highly political. Thirdly, for a number of tribunals, including those specified in question 12, the method of selection of judges was entirely unknown, as was the nature of training given to them, if any. Though he entirely agreed with Mr. Zakhia that the Committee needed much more information on the general structure and functioning of the judiciary, question 12 was intended to raise specific points that needed urgent consideration.

36. Mr. ZAKHIA noted that in the past Sudan had been in the vanguard of Arab countries in terms of jurisprudence and judicial practice, but the situation had now degenerated. The list of issues would be transmitted to the Government; it would therefore be preferable to refer to the administration of justice in general. Often human rights were not implemented because of organizational problems in such administration.

37. The CHAIRPERSON suggested the addition of a reference to judicial mechanisms in general at the beginning of the first part of the question. The two subparagraphs, (a) and (b), seemed redundant, and she requested clarification on that point.

38. Lord COLVILLE said subparagraph (b) referred to the military courts, tribunals set up under the National Security Act 1994, the Public Order Courts, and the Military and Security Courts, which were special courts with special regulations and did not form part of the excellent high court system established earlier in the country's history. Subparagraph (a) was intended to address that original high court system and the way in which it had worked.

39. The CHAIRPERSON thanked Lord Colville for his explanation and said that, if she heard no objection, she would take it that the Committee wished to adopt her suggestion for the incorporation in subparagraph (a) of a reference to judicial mechanisms in general.

40. It was so decided.

41. Question 12, as amended, was adopted.

Question 13

42. Mr. ZAKHIA, supported by Mr. POCAR, suggested that freedom of religion should be expressly mentioned between the freedoms of conscience and expression in the text of the question, if not in its title.

43. Lord COLVILLE remarked that the religious rights of persons belonging to minorities was dealt with in question 9.

44. Mr. BHAGWATI said that the question, as worded at present, covered too wide a field and was unlikely to elicit a satisfactory reply.

45. Mr. KLEIN agreed that a more selective approach would be more productive. Were all the rights listed in the question endangered in the same way and to the same extent?

46. Lord COLVILLE said that the problems arising from restrictions imposed on the exercise of all the rights listed in question 13 were very real.

47. Ms. EVATT, noting that the report admitted the existence of certain restrictions on all the rights and freedoms listed in the title of the question, with the possible exception of those under article 25 of the Covenant, suggested that the Committee should ask how those restrictions were considered to be compatible with the Covenant.

48. Mr. BUERGENTHAL agreed with that suggestion, but observed that it might be sufficient to focus on the freedom of expression and the right to form political parties, which surely represented the crux of the matter.

49. Mr. BHAGWATI said that he would be entirely satisfied if the question was reformulated so as to ask the Government of Sudan how the restrictions imposed on the exercise of the freedom of conscience and the right to form political parties were compatible with the Covenant.

50. It was so decided.

51. Question 13, as amended, was adopted.

Question 14

52. Mr. BHAGWATI said that the word "prevalence" in the second line should be replaced by "precedence".

53. Question 14, as amended, was adopted.

Question 15

54. Question 15 was adopted.

55. The list of issues as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the fourth periodic report of Belarus (CCPR/C/84/Add.4 and 7) CCPR/C/61/Q/BEL/2)

56. Lord COLVILLE observed that, although the working group had deliberately refrained from highlighting them, questions 7 and 11 raised key issues affecting all other problems arising in Belarus.

Question 1

57. Mr. BUERGENTHAL inquired whether the importance of the question warranted its being placed at the top of the list of issues. Could it not be moved to the end of part I or the beginning of part II?

58. Lord COLVILLE said that the question, especially its second part, was more important than it looked.

59. Ms. EVATT said that some non-governmental organizations (NGOs) in Belarus had had their premises broken into, while some had been prevented from attending the session. The matter was of considerable importance.

60. Mr. YALDEN considered that, in that case, the dissemination of information aspect could perhaps be played down or omitted altogether.

61. Mr. BUERGENTHAL suggested that the question should be reformulated in the light of the discussion.

62. It was so decided.

63. Question 1 was adopted on that understanding.

Questions 2 to 8

64. Questions 2 to 8 were adopted.

Question 9

65. Mr. SCHEININ, noting that the question was one of the two key issues mentioned by the Chairman of the working group, proposed the addition of the following sentence before the last sentence: "What safeguards have you to protect the freedom of expression of broadcasters and broadcasting professionals?". He understood that some broadcasting stations in Belarus had had their frequencies taken away, and that foreign radio and television journalists had been expelled.

66. The CHAIRPERSON wondered whether the proposed sentence ought not to refer to all mass media rather than only to broadcasting.

67. Lord COLVILLE pointed out that the other media were covered by the first sentence. Particular problems had recently arisen in Belarus in connection with broadcasters and television technicians, especially from Russia.

68. Mr. BHAGWATI considered that a reference to the press would be justified in view of certain government practices outside the legal framework of the Acts referred to in the first sentence. For example, independent newspapers - which had to be printed in Lithuania because printing presses and distribution networks inside Belarus were entirely government-controlled - were often confiscated at the time of importation.

69. Mr. ZAKHIA said that he, too, would be in favour of including a reference to the press as well as to the broadcasting media.

70. It was so decided.

71. Question 9, as amended, was adopted.

Questions 10 to 13

72. Questions 10 to 13 were adopted.

Question 14

73. The CHAIRPERSON said that the reference to article 9 of the Covenant should be deleted from the title of the question.

74. It was so decided.

75. Question 14, as amended, was adopted.

Questions 15 to 17

76. Questions 15 to 17 were adopted.

77. The list of questions as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the initial report of Lithuania (CCPR/C/81/Add.10) (CCPR/C/61/Q/LIT/2)

78. Lord COLVILLE said that, apart from the continuing use of the death penalty, the situation in Lithuania did not give rise to any special problems.

79. The CHAIRPERSON suggested that question 10, which at present appeared at the top of part II, should be moved to become question 1 of part I.

80. It was so decided.

Questions 1 to 4 (old numbering)

81. Questions 1 to 4 were adopted.

Questions 5, 14 and 15

82. The CHAIRPERSON pointed out that article 9 did not refer to a system of detention. Moreover, paragraph 35 of the report merely quoted article 20 of the Lithuanian Constitution concerning the right to liberty and security of person and there was no need to cast doubts on its compatibility with article 9.

83. Ms. EVATT, supported by Lord COLVILLE, said that the query relating to article 9 should really refer to paragraphs 35 to 47 of the report, which revealed many instances of incompatibility with article 9. One of the many

shortcomings of the system of arrest and pre-trial detention was that the prosecutor had the power to issue arrest warrants and take decisions on detention.

84. Mr. SCHEININ suggested that the question should be broadened to refer to paragraphs 102 and 180 concerning other forms of deprivation of liberty.

85. The CHAIRPERSON noted that paragraphs 35 to 47 dealt with judicial detention, paragraph 102 with police powers and administrative detention, and paragraph 180 with juvenile offenders.

86. Ms. EVATT felt that those issues would be more suitably dealt with under question 15 in part II.

87. The CHAIRPERSON suggested that question 15 should be brought forward and combined with question 5 to avoid separating judicial detention and administrative detention and thereby giving the false impression that the former issue was more serious than the latter.

88. Mr. SCHEININ said there seemed to be a general problem with the Lithuanian approach to article 9 and suggested combining question 14 with the same group of queries.

89. Lord COLVILLE suggested the following rewording of question 5, inserting paragraph references to the report where appropriate:

> "Systems of detention (article 9 of the Covenant): Please explain how the systems of arrest, pre-trial detention and administrative detention and the procedure under the Code of Penal Procedure operate in practice and explain how they are compatible with article 9 of the Covenant."

90. It was so decided.

91. Questions 5, 14 and 15, as amended, were adopted.

Question 6

92. Question 6 was adopted.

Question 7

93. Mr. KLEIN pointed out that the Covenant did not provide for a right of asylum. The treatment of asylum-seekers could be considered under article 9 concerning deprivation of liberty, article 13 concerning aliens and article 23 concerning family rights, but a State party could not be questioned about the number of requests for asylum that had been granted or denied since independence.

94. Mr. SCHEININ suggested that, in the context of article 7, information should be requested on the rules governing the granting or refusal of the status of refugee and on forms of protection against cruel, inhuman or

degrading treatment. The last part of the question might be reworded to read: "Please provide information on the rights and treatment of the person and his/her family until a decision thereon is reached."

95. The CHAIRPERSON considered that the Committee was not justified in requesting information on the rules governing the granting or refusal of refugee status or on the remedies available. It must confine its inquiries to the last part of the question, with perhaps a reference to freedom of movement pending a decision.

96. It was so decided.

97. Question 7, as amended, was adopted.

Question 8

98. Question 8 was adopted.

Question 9

99. Mr. BUERGENTHAL said he understood that a serious problem had been created, especially for the Polish minority, by Lithuanian legislation restricting the way in which names could be used by individuals belonging to national minorities. In some cases, the names were distorted beyond recognition. He suggested the following addition to question 9: "Are there legal restrictions in Lithuania on the use of names by individuals belonging to national minorities?"

100. It was so decided.

101. Question 9, as amended, was adopted.

Part II

Question 11

102. Mr. POCAR, referring to the second sentence, said it was inappropriate to inquire about the role and functions of NGOs concerned with the defence of human rights.

103. Mr. YALDEN said he understood that a number of NGOs had been banned under the Law on Non-Governmental Organizations referred to in paragraph 138 of the report. The issue could be taken up in connection with the right to freedom of association.

104. Mr. KLEIN suggested inquiring about the impact of the Law on the activities of NGOs concerned with the defence of human rights.

105. The CHAIRPERSON said she failed to see how that part of question 11 related to the Human Rights Ombudsman.

106. Mr. BHAGWATI suggested a question along the following lines to be inserted after question 19: "Are the restrictions on the formation and activities of NGOs set out in paragraphs 146 et seq. compatible with article 22 of the Covenant?"

107. Mr. POCAR said he would prefer the question to be even more forthright: "In the light of information given in paragraphs 146 et seq. of the report, what has been the practical impact of the Law on Non-Governmental Organizations on the freedom of NGOs to pursue their activities in defence of human rights?"

108. Mr. BHAGWATI suggested as a compromise: "What is the impact of the restrictions on NGOs set out in paragraphs 146 et seq. of the report on the activities of NGOs in defence of human rights".

109. Mr. KLEIN felt it would be preferable to ask: "What is the practical impact of the Law on Non-Governmental Organizations referred to in paragraphs 146 et seq. of the report on the right to association, especially of NGOs concerned with the defence of human rights?"

110. Mr. ZAKHIA suggested that there should be a reference to the "freedom of action" of NGOs.

111. Mr. YALDEN pointed out that all NGOs were affected by the Law, not just those concerned with human rights.

112. The CHAIRPERSON asked whether the following rewording of the second half of question 11 was acceptable as a new question to be inserted after question 19: "What is the practical impact of the Law on Non-Governmental Organizations referred to in paragraphs 146 et seq. of the report on the freedom of action of NGOs?"

113. It was so decided.

114. Question 11, as amended, was adopted.

Question 12

115. Mr. BUERGENTHAL suggested that question 12 should be moved to part I as question 2.

116. It was so decided.

117. Question 12 was adopted.

Question 13

118. Mr. BHAGWATI suggested that the question should be deleted.

119. The CHAIRPERSON, noting that question 13 apparently referred to a major problem in the army, suggested that the question should be put to the delegation orally.

120. It was so decided.

121. Question 13 was deleted.

Questions 16 to 18

122. Questions 16 to 18 were adopted.

Question 19

123. Mr. BHAGWATI suggested that the words "to perform" should be replaced by "for".

124. It was so decided.

125. Question 19, as amended, was adopted.

Question 20

126. Mr. KLEIN suggested that a reference to article 2 of the Covenant should be inserted.

127. It was so decided.

128. Question 20, as amended, was adopted.

129. The list of issues as a whole, as amended, was adopted.

The public part of the meeting rose at 5.15 p.m.

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Sixty-first session

SUMMARY RECORD OF THE 1618th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 October 1997, at 10 a.m.

Chairperson: Ms. CHANET
later: Mr. EL SHAFEI

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic report of Senegal

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.97-18703 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Fourth periodic report of Senegal (HRI/CORE/1/Add.51/Rev.1; CCPR/C/103/Add.1; CCPR/C/61/Q/SEN/3)

1. At the invitation of the Chairperson, Mr. Amadou Diop, Mrs. Maymouna Diop, Mr. Mandiogou Ndiaye, Mr. El Hadji Malick Sow, Mr. Ibou Ndiaye and Mr. Abdou Aziz Ndiaye (Senegal) took places at the Committee table.

2. Mr. Amadou DIOP (Senegal), introducing the fourth periodic report of Senegal (CCPR/C/103/Add.1), said it had been drafted in a spirit of continuity, respect for commitments and fidelity to the cause of human rights. Ever since its accession to international sovereignty, Senegal had based its existence as a State governed by law on democracy and observance of human rights. Its attachment to the fundamental rights defined in the Universal Declaration of Human Rights was solemnly proclaimed in the Constitution, and Senegal's first act after independence had been to advise the United Nations Secretary-General that it was bound by all the legal instruments on human rights to which the former colonial Power had been a party. Senegal had subsequently acceded to all the human rights instruments and had been in at the birth of the African Charter on Human and Peoples' Rights. It had agreed to submit itself periodically to criticism from the various treaty-monitoring bodies. Internally, Senegal had endeavoured to implement the recommendations made by the Human Rights Committee following its consideration of the third periodic report. At the regional and international levels, it was working to set up an African Court of Human Rights within the framework of the Organization of African Unity (OAU) and to establish an international criminal court.

3. Mr. Mandiogou NDIAYE (Senegal) said the Senegalese Constitution did not just refer to the Universal Declaration of Human Rights but in articles 6-20 systematically enumerated the fundamental rights it proclaimed. It condemned all forms of racial discrimination and guaranteed freedom of conscience, thought, religion and expression, and freedom of assembly and association, as well as equality before the law and justice and the independence of the judiciary. Implementation of article 2 of the Covenant was also ensured, and procedural law gave all injured parties the right and possibility of bringing their cases to court and of exploring a number of remedies. Any individual could also file a constitutional motion with the Constitutional Council when the settlement of a case brought before the Court of Cassation or the Council of State depended on a decision as to the conformity of a law with the Constitution. As far as remedies were concerned, the smooth functioning of the institution of the Mediator, which dated back to 1991, should be stressed. At the regional level, any individual claiming to have been the victim of a violation could take his case to the African Commission created under the African Charter of Human and Peoples' Rights and, at the international level, such international bodies as the Committee against Torture.

4. Some developments were quite recent and it had therefore not been possible to include them in the fourth periodic report.

5. First of all, as to protection of the family, which was the basic unit of Senegalese society, the Ministry of Women, Children and the Family, which had grown out of the Ministry of Social Development established in 1983, had prepared three reference documents: the National Action Plan for Women (1996-2005), the National Action Plan for Children (July 1991-2000) and the Action Plan for the Family, which was in progress. The implementation of those three plans should help to guide and coordinate the actions of the authorities, partners in development and non-governmental organizations (NGOs) involved with the family, women and children.

6. In pursuance of the recommendations of the Committee against Torture and the Human Rights Committee, the President of the Republic, on 23 April 1996, had sent the Prime Minister instructions, requesting him among other things to redefine the mandate of the Senegalese Human Rights Committee and provide it with the means to discharge that mandate, as well as to specify the responsibilities of the Interministerial Committee on Human Rights. He had also asked him to invite the Minister of Justice to prepare a bill criminalizing acts of torture in conformity with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in the meantime to instruct Ministers to seek out and punish all violations of fundamental rights. Act No. 96-15 of 28 August 1996 had introduced the criminalization of acts of torture into the Penal Code, with a broad definition, in conformity with the Convention against Torture. Furthermore, on 30 April 1996 Senegal had made the declaration under articles 21 and 22 of the Convention against Torture, recognizing the competence of the Committee against Torture to receive and consider communications from a State party (art. 21) or individuals (art. 22).

7. In the light of General Assembly resolution 48/632, on national institutions for the promotion and protection of human rights, the Senegalese Government had deemed it necessary to strengthen the status of the Senegalese Human Rights Committee, established by decree in 1970; an act had thus been promulgated to govern the Committee, which was henceforth defined as an "independent" and pluralist institution, as the National Assembly, the Economic and Social Council of Senegal, the country's high courts, the bar, the university and NGOs, were represented on the Committee by eight full members. It should be stressed that the Administration representatives on the Committee served in an advisory capacity only. The Committee's powers had been broadened and specified, and it could now issue recommendations at the request of the Government or Parliament or at its own initiative; it was also in charge of promoting information on human rights. The members of the Committee were unremunerated, but the body had the resources necessary for it to function smoothly.

8. There was also the Interministerial Committee on Human Rights and International Humanitarian Law, answerable to the Prime Minister, which comprised representatives of all the relevant ministries. With a general mandate of coordinating Government action in the field of human rights, it drafted, submitted and followed up on Senegal's periodic reports to the international bodies, which first had to be submitted to the Senegalese Human

Rights Committee for consideration. The Interministerial Committee ensured that the competent Ministers acted on allegations of violations of fundamental rights brought to their attention and it coordinated their replies. It encouraged the teaching of human rights and international humanitarian law in schools, universities and vocational training institutions and made sure that applicable laws and regulations were adapted to human rights and international humanitarian law.

9. Mention should also be made of the establishment of the National Election Observation Body (ONEL) under the new Electoral Code, which had been rewritten in order to bolster the efficiency and impartiality of periodic elections. ONEL had been created following the adoption of Act No. 97/15 of 8 September 1997, and was accepted by virtually all the Senegalese political parties, of which there were 26. It was in charge of supervising and monitoring elections and referendums in order to ensure regularity and transparency and to guarantee both voters and candidates the free exercise of their rights. In that capacity, it was empowered to issue orders to the Administration and to propose penalties against anyone infringing the laws and regulations, and if necessary it could bring cases before the competent courts or even, in the case of violations of criminal law, lodge complaints with the Public Prosecutor. Its members enjoyed a form of immunity similar to parliamentary immunity, which guaranteed their independence.

10. Mr. El Shafei took the Chair.

11. The CHAIRPERSON thanked the Senegalese delegation and invited it to reply to the questions in part I of the list of issues to be taken up in connection with the report (CCPR/C/61/Q/SEN/3).

12. Mr. Amadou DIOP (Senegal), replying to the questions in paragraph 1, on the Casamance conflict and state of emergency, stated that the state of emergency had never so far been proclaimed on Senegalese territory, not even in Casamance. The Committee had asked what measures had been taken to preserve the cultural identity of those living in the southern part of the country; Casamance was one of the most ethnically integrated regions, as its residents came from a mosaic of ethnic groups, in balanced proportions, which was not the case for all regions of Senegal. The identity of all the ethnic groups in Casamance was expressed through cultural events, rites of initiation and the recognition of all local languages, all of which were actively encouraged by the State. As to economic measures, whenever the Senegalese State negotiated with its economic partners it endeavoured to encourage investment in the region, which suffered from being landlocked. Since Casamance had heavy rainfall, large agricultural estates had sprung up there, and it was particularly in that connection that an investment effort was being made, as well as in the construction of infrastructure, such as bridges. The Committee had also asked about the origins of the conflict in Casamance but, since an ethnic motivation could be ruled out with certainty, it was difficult to discern a clear cause. It could nonetheless be argued that the National Land Distribution Act of 1972, which had altered the traditional forms of land management, had created intense frustration within traditional Diola societies, to whom the land was sacred. The State was now seeking ways to encourage a return to equilibrium and was working to that end with the aid of several sectors of civil society.

13. He gave the following figures on Casamance from the latest census of 1988: the Diola numbered 270,660; the Wolof, 37,921; the Serer, 12,342; the Pulaars, 317,703; and the Mandingo, 172,378.

14. Mr. Malick SOW (Senegal), replying to the questions in paragraph 2 (Use of weapons by members of the police and security forces (art. 6)), assured the Committee that in 9 of the 10 regions of Senegal there had never been any cases involving the use of firearms by the police. In the tenth region, however, which was Casamance, the situation of armed conflict did in fact compel the security forces to use their weapons in self-defence. Recently, rebels had broken into a gendarmerie to release the persons being kept in custody, and the police had fired on them; the incident had caused injuries but no deaths. In any case, Senegal possessed comprehensive legal machinery for punishing police excesses. Legal proceedings were under way against some members of the security forces who had committed acts of torture. In addition to the provisions of the Penal Code, there were laws that specifically covered the army, governing the conditions under which the military could use firearms and providing for disciplinary measures and legal proceedings should the rules be contravened. In a circular dated 23 April 1996, the President of the Republic had asked the Prime Minister and the Minister of Justice to authorize the prosecution and punishment, to the fullest extent of the law, of all public officials guilty of the sort of conduct referred to in question 2 of the list of issues. On 26 April 1996 the Minister of Justice had sent a circular to that effect to the Public Prosecutor, regional prosecutors, deputy prosecutors, administrative and judicial authorities, Ministry of the Armed Forces and Ministry of the Interior.

15. Mr. Mandiogou NDIAYE (Senegal) said that the reference to "extrajudicial executions" in paragraph 3 of the list of issues (Extrajudicial executions, disappearances and torture (arts. 6 and 7)) generally applied to cases in which the security forces executed a detainee instead of turning him over to the judicial authorities. It could therefore be stated that there were no extrajudicial executions in Senegal. In Casamance, on the other hand, which was a troubled region, murders and assassinations were committed by the rebels. When the Senegalese army was in the field, it was accompanied by a special unit of the gendarmerie, called the military police prévôté, whose members had the rank of judicial police officers and were therefore empowered to conduct judicial investigations involving soldiers who had allegedly committed violations and civilians apprehended as the perpetrators of violations. Within the framework of its functions, the prévôté was under the direction and control of the Public Prosecutor, to whom it reported. Paragraph 48 of the report of Senegal was poorly drafted, as it did not make clear that when the army was called upon to respond to attacks by the MFDC rebels, or when it fell into an ambush, it reacted in full accordance with the law, in self-defence. Likewise, when the military police officers arrested someone who had committed a murder or an assassination, they were under an obligation to bring him before the authorities, and if the individual was found guilty, he was executed. It therefore bore repeating that there were no extrajudicial executions in Senegal.

16. Mr. Malick SOW (Senegal), providing the additional information requested in paragraph 4 of the list of issues, on liberty and security of the person, stated that there were no detainees kept incommunicado in Senegal. The

Senegalese Code of Criminal Procedure meticulously regulated the procedures involving persons under arrest. All arrests had to be made by a criminal police officer, no one could be held for more than 48 hours and all arrested persons had to be kept in premises specially adapted for that purpose, at a place stipulated by legislative and regulatory provisions. Once the person was arrested, the Public Prosecutor had to be informed of the fact in order to ensure that legal conditions of detention were observed. The person had to be advised of the reasons for his arrest. The application of those measures was subject to monitoring by the Public Prosecutor and, often, by the examining magistrate. The criminal police officers were required to keep a regularly updated register, initialled by the Public Prosecutor.

17. For certain violations custody was twice as long, ranging from two to four days and, under some conditions, up to eight days. Whenever the criminal police officer wished to extend the custody beyond 48 hours, he had to obtain the written authorization of the Public Prosecutor, who then set the modalities, conditions and length. When he deemed it necessary, the Public Prosecutor could have the detainee examined by a doctor at any time during the proceedings. At any time the person could also, either directly or through a lawyer, ask to be examined by a doctor. The Public Prosecutor was in all cases obliged to order such medical examinations, which had to be conducted at the detention centre.

18. The record of the custody had to indicate the date, time and reasons for detention, the length of questioning and of periods of rest and the date and time of release. Those items had to be initialled in the margin by the person concerned, and any refusal on his part had to be indicated in the record, on pain of nullity.

19. In the case of any irregularities in applying those measures, the Public Prosecutor had to inform the Chief Prosecutor, who brought the matter before the president of the criminal court, who in turn undertook an inquiry. If the legal provisions had been contravened, the criminal police officer could be liable to disciplinary measures or judicial proceedings.

20. Other than the exception indicated for cases in which it was the lawyer who asked that the person in police custody should be examined by a doctor of his choice, there was no provision for the lawyer to be present during the period in custody. The question was under study in Senegal, and his delegation thought it should be possible to fill that gap in Senegalese law.

21. The last question in paragraph 4 of the list of issues concerned the reduction of the length of pre-trial detention. In Senegal, liberty was the rule and detention the exception. That principle was enunciated in article 127 of the Code of Criminal Procedure, according to which, if the penalty involved was equal to or less than two years, the person could not be detained for more than five days. If the arrested person was lawfully domiciled in the judicial district, he could not be subjected to pre-trial detention unless he was a repeat offender. Under article 127 bis of the Code of Criminal Procedure, if the detention was in effect, the individual was placed under a committal order, by virtue of an official act of the examining magistrate, who advised the accused of the reasons for his arrest. The committal order could not extend for more than six months. If it appeared

necessary to keep the person in detention beyond that time, the judge had to renew the order through a reasoned decision and so notify the accused, who was entitled to file an appeal with the criminal court. If the judge had not taken a special reasoned decision at the expiration of the six-month period to extend the committal order, the accused was immediately released on bail, although the judge retained the power to issue a new committal order against him for the same acts. Other provisions allowed the accused to request bail during the six-month period. The judge could order bail as a matter of course and the Prosecutor could ask the judge to release the accused, also as a matter of course.

22. Other provisions called for guarantees: if an application for bail was submitted to the judge, the judge had to refer it to the Public Prosecutor within 48 hours, the Prosecutor had to respond within 10 days and, in line with the Prosecutor's submissions, the judge had to hand down a substantiated decision within five days. If he did not, the accused could apply to the criminal court, which had to rule within a month, failing which the accused was immediately granted bail. The right to apply to the criminal court could also be exercised by the Public Prosecutor if he found that the time-limits had not been observed. Once the criminal court had granted the accused bail, and quashed the decision by the examining magistrate, the latter could no longer place the detainee under a new committal order.

23. There were many provisions governing pre-trial detention. The relevant machinery functioned without interruption, and the criminal court scrupulously ensured that decisions were respected. The president of the criminal court had to check that the examining offices were running smoothly and make sure there was no delay in the procedures; cases involving detainees received special attention and appeared on a special list. All cases which had been registered with an examining office for more than six months were covered by a detailed report, which was updated every month until the proceedings were completed. Given that there was a whole series of provisions on detention, his delegation proposed to take up the subject again in detail at a later stage if the members of the Committee had specific questions to ask.

24. Regarding paragraph 5 of the list of issues, on conditions of detention, he said that, since the report had been drafted, a number of measures other than those indicated in paragraphs 140 and 141 had been taken to improve conditions of detention as well as the health and education of prisoners. Prison overcrowding was unfortunately a problem in Senegal, as elsewhere, despite efforts to combat it. The Government was planning to build a new prison and had just increased the daily allowance for detainees. The problem of overcrowding was particularly severe in the region of Cap-Vert and in Dakar, where there was a heavy caseload, but it was more or less within acceptable limits in the rest of the country.

25. Mrs. Maymouna DIOP (Senegal) replied to the questions raised in paragraph 6, on equality of the sexes. Regarding the proportion of women in political, economic, social and cultural life, she said that women accounted for 52 per cent of the Senegalese population and that there were 4,000 women's organizations belonging to the National Federation of Women's Organizations, which had more than 500,000 members throughout the 10 regions of Senegal. Of the 120 deputies in the National Assembly, 14 (or 11.7 per cent) were women.

In the next legislature (May 1998), however, that number would increase, as women had succeeded in having 25 per cent of electoral candidatures reserved for them. Women represented 12.4 per cent of judges and 14.4 per cent of lawyers. Of 33 ministers, however, only three were women, and they dealt with social issues. There were two women, including herself, out of the hundred or so career diplomats.

26. Women constituted 52 per cent of the population, but their distribution as members of the electorate varied from region to region: 51.83 per cent in the St-Louis region, 52 per cent in Ziguinchor, 45 per cent in Dakar and 44 per cent in Diourbel. Regarding decentralization and participatory development, 15.74 per cent of municipal councillors and 7.92 per cent of rural councillors were women. As to high-level posts in the public service, there were eight female national directors and, since the November 1996 elections, six women mayors, a sixfold increase over the post-independence elections of 1960. Her delegation could make the document containing those statistics available to the members of the Committee.

27. Paragraph 35 of the report referred to the thorny problem of polygamy. From the legal standpoint, the Senegalese Family Code had set up a system for choosing between monogamy and polygamy, either extended (four wives) or limited (two wives). That choice was final, although the couple could opt to change a previous situation of polygamy by making a new and more restrictive choice. The choice was maintained even after the dissolution of a marriage, for example through divorce. Despite legislative efforts to encourage the ultimate elimination of polygamy, it persisted due to cultural factors. The Family Code, a basic instrument, was intended to guarantee the right of persons, and in particular of women and children, to legal protection, without distinction as to religion or origins. The Code was undeniably a step forward, although admittedly some of its provisions warranted further reflection, for example the obligation of fidelity and its compatibility with the choice of polygamy with four wives, and the fact that it was polygamy and not monogamy that constituted the ordinary-law system.

28. As to the provisions on parental authority, marital authority and the prerogative of choosing the couple's place of residence (see paragraph 33 of the report), they were subject to protective measures which made it possible not to consider those provisions of the Family Code as completely discriminatory. In reply to the question on that subject in paragraph 6 of the list of issues, she said the Code was an instrument that was meant to take the country's sociocultural situation into account - in other words, it was an instrument of compromise between still-prevalent cultural values, religious freedoms and duties and the principles of secularism. It should not be forgotten that, while according to the civil registers about 30 per cent seemed to be choosing polygamy, in reality the percentage was closer to 60 per cent in rural areas.

29. Polygamy was currently the subject of a great deal of reflection in Senegal, from the lowest echelons of society to the highest levels of government. The Head of State had quite recently come out in favour of monogamy, which was a very courageous stance in a country that was 95 per cent Muslim and only 4 per cent Christian. A seminar of jurists had proposed that, if polygamy could not be wiped out entirely, it should be limited to two

wives. The National Action Plan for Senegalese Women, adopted following the Fourth World Conference on Women in September 1995, had advocated a number of steps to settle the problem of choice to ensure that choice was truly respected, as there were monogamous men who married several women "in parallel". The express declaration indicating the option chosen ought to be made at the time of marriage, but frequently the civil registrar did not ask for that declaration and, long after the marriage, the husband announced he was opting for polygamy. Discussion of the question would require reliable studies, with specific data and statistics on polygamy, in order to understand its impact.

30. With regard to equality of the sexes, steps had been taken to ensure access by women to certain managerial functions and the armed forces (see paragraph 37 of the report). Henceforth, Senegalese women had access to all levels, including that of high-ranking officer in the army, the gendarmerie, the police and the paramilitary sector, such as Customs and other services.

31. The last point raised in paragraph 6 of the list of issues concerned the literacy and school enrolment rates of women and girls. In 1995, 78 per cent of Senegalese women had never been to school, and it was currently estimated that the school population comprised 55 per cent of girls and 65 per cent of boys. With regard to literacy, two of every 10 women had received a basic education, meaning that they had learnt to read, write and count, usually in the national languages in the rural areas. To increase the school enrolment rate of girls and raise the educational level of women, an attempt was being made to develop a willingness on the part of families and the authorities to design and provide children with non-discriminatory education. The authorities had also helped to ensure pre-school education for 50 per cent of children aged two to six up to the year 2000, maintaining an equal participation rate for girls and boys. The decision to reduce the gap between girls and boys in secondary, technical and vocational and university education, where the proportion of girls was much lower, should also be highlighted. The goal of the National Plan of Action for Senegalese Women was to reduce female illiteracy by 10 per cent by the year 2000 through the United Nations Children's Fund (UNICEF) and other programmes. Funds had just been released for Casamance for the education of girls.

32. Before taking up the question of domestic violence, female genital mutilation and prohibition of abortion (para. 7 of the list of issues), she first discussed early marriage, which was also a form of violence against women. Article 300 of the Penal Code criminalized all marriages involving a person under age 13. Within the framework of the National Plan for Action for Senegalese Women, it had been proposed that an act should be drafted with regard to early marriages to bring Senegalese law and the Family Code into line with the relevant international conventions.

33. Among the forms of violence against women, sexual harassment had the same status in the Penal Code as endangering morals and assault. Rape was criminalized by article 320 of the Penal Code. Female circumcision, one of the most delicate problems at the present time, was not criminalized as such by any specific law. However, reference could be made in that regard to articles 294, 298 and 299 et seq. of the Penal Code, which dealt with assault and wilful injury. Under article 294, any individual who wilfully inflicted

injury or committed any other type of violence or assault would be punished with one to five years' imprisonment if the act resulted in illness or total disability. Female circumcision was considered to be a form of mutilation and, under the Penal Code, if the violence led to the death of the victim, amputation, mutilation or permanent inability to use a limb, the sentence was five to 10 years' imprisonment. If the guilty person was the father, the mother, another older relative or the child's guardian, he or she was punished by hard labour for life. It was important to know that those articles of the Code could be used to penalize female genital mutilation.

34. Also with regard to violence against women, a study conducted by the NGO ENDA Tiers Monde had shown that 24 per cent of Senegalese women were the victims of domestic violence. The legislature could do nothing about that, however, as the victims did not bring those acts to the attention of the judicial authorities, either out of fear or out of reticence. In Senegal, it was awareness-raising activities that could bring about a change, in both rural and urban settings. Women were increasingly aware of the need to see to their own defence and to bring their grievances to the courts, as some recent cases had demonstrated. Again according to ENDA Tiers Monde, as of 1992, 20 per cent of women had been circumcised. Currently, the phenomenon was declining markedly thanks to a campaign being carried out of working closely with the community, in particular by the Senegalese Committee to Combat Traditional Practices Affecting the Health of Women and Children.

35. A legal framework did exist on the rights of the child, which were covered by article 24 of the Covenant, since Senegal in 1990 had ratified the Convention on the Rights of the Child and had already ratified several conventions of the International Labour Organization (ILO) on the minimum working age in certain occupations. Furthermore, Parliament was expected to ratify ILO Convention No. 138 on the minimum working age before the end of its annual session, in November 1997. Nonetheless, child labour was already regulated by national law, which established 14 years as the minimum working age and 18 years as the minimum age for engaging in work that was dangerous or harmful to health. In addition, Senegal had adopted a National Plan of Action for Children as well as a National Plan of Action for Child-Workers, and had set up a very important programme for the support of street children, to which local groups contributed through their mayors and municipal counsellors, along with the NGOs represented in Senegal. Three approaches were favoured: strengthening legal protection, social mobilization and access to basic social services. There was a children's parliament, which met every year to discuss the situation of child labour, and the Head of State had ordered reliable studies to be carried out on actual practice, the long-term objective being the total abolition of child labour.

36. Ms. Chanet resumed the Chair.

37. The CHAIRPERSON thanked the Senegalese delegation for its replies to paragraphs 1-8 of the list of issues and invited the members of the Committee to ask further questions on part I of the list.

38. Mr. EL SHAFEI welcomed the continuing dialogue with the State party, which had always been frank and conducted at a high level. He was particularly grateful to the delegation for the clarifications provided in its

oral presentation, since in his opinion the report of Senegal did not contain sufficient concrete information on the reality of the human rights situation there.

39. His major concern had to do with the situation in Casamance and the real causes and origins of the problem, which had not been adequately explained. Was the conflict due to the presence of ethnic groups or particular tribes in the region, or to the land distribution system? What steps had been taken to bring an end to the human rights violations committed in the region, both by insurgents and by the police or security forces, and why had the efforts at pacification still not led anywhere?

40. His second concern arose from recent information, particularly from an organization called "La Rencontre africaine pour la défense des droits de l'homme" (African Movement for the Protection of Human Rights), which alleged a number of acts of torture, extrajudicial execution and detention without trial in Casamance, as well as other reports that the Senegalese Government was failing to carry out the impartial and in-depth investigations required to bring the perpetrators to justice, compensate the victims of violations and avoid a recurrence of such violations. Alarming reports also described arrests and imprisonment for political reasons, which was in total violation of the Covenant.

41. He wished to know whether the 1991 Amnesty Law was still in force, given recent developments in which members of the armed forces and police had been implicated, and whether concrete steps had been taken to conduct the necessary investigations of the reported cases of torture and extrajudicial executions.

42. Ms. EVATT thanked the Senegalese delegation for the additional information it had furnished in its oral presentation. In Senegal, anyone claiming to have been the victim of a violation of his rights could apply to the courts, but she wished to know whether, for example when the violation led to the victim's death, a third party, either a member of the family, an NGO or a human rights organization, could lodge a complaint on behalf of the deceased victim.

43. Torture was punished in Senegal, partly as a result of the Government's ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, she wondered about the definition of torture in the Senegalese Penal Code and whether its scope was as broad as that of article 1 of the Convention, under which "torture" meant "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person", a definition which was to be read in conjunction with article 7 of the Covenant.

44. As to the situation in Casamance, she shared Mr. El Shafei's concerns and was alarmed by the information provided not only by several NGOs but also by the Special Rapporteurs on extrajudicial executions, forced disappearances and torture of the Commission on Human Rights, which referred to numerous exactions committed by the country's security forces.

45. With regard to the situation of women in Senegal, she wondered whether the fact that polygamy was authorized by law meant that women were considered

in a manner incompatible with their fundamental right to dignity and equality. She asked whether the Senegalese authorities intended to eliminate the provisions of national civil law on the family and inheritance that were contrary to respect for women's rights. Was the Government taking steps to eradicate the practice of female genital mutilation, not only through education and information but also through legislation? What was the effect of the prohibition of abortion on the maternal mortality rate?

46. Ms. MEDINA QUIROGA associated herself with other members of the Committee in welcoming the Senegalese delegation and also endorsed the questions that had been raised. She remained concerned by two basic issues, those of detention in police custody (garde à vue) and the status of women. On the first point, she asked for specific information on how detention was actually conducted and the reasons why the law authorized the judge to decide whether to place an individual in detention. Was the length of detention determined by the sentence imposed for the offence of which the arrested person was suspected.

47. With regard to the status of women, she wondered whether the fact that the Family Code was mainly intended to protect women, as stated in paragraph 33 of the report, did not in fact mean that they were more often subjected to a form of authoritarianism, which would be contrary to the Covenant. The delegation had indicated that the unequal status of women was explained by the country's cultural traditions, as was the case in many other regions of the world, but it was for the Government to conduct a continuous campaign, not only to bring about a change in culture-related attitudes, but also to put new laws into place that would facilitate such a change. She also wished to have statistics on the maternal mortality rate in Senegal and to know to what extent that rate was linked to the prohibition of abortion. According to paragraph 12 of the core document (HRI/CORE/1/Add.51/Rev.1), the fertility rate was 6.8 children for all women; how did the family planning system work, and did it really meet the needs of the women themselves?

48. Mr. BUERGENTHAL associated himself with the questions raised previously by members of the Committee. He had been surprised by how general and theoretical the report was, and therefore thanked the delegation for having furnished additional information which for the most part should have appeared in the report itself.

49. According to paragraph 54 of the report, the length of detention could be extended beyond the initial period of 48 hours; he wondered to what extent the courts could contest such a decision taken by the prosecutor's office. Noting that, according to paragraph 55 of the report, the Code of Criminal Procedure provided for sanctions in the event of abuses committed by an officer of the criminal police during detention of a suspect, he asked who was in charge of investigating the allegations of such abuses: the police itself, or another official body? As to the situation in Casamance, considering that Senegal had not made the declaration under article 4 of the Covenant, he wondered under what provision the right to be tried promptly had apparently been suspended for persons arrested during the conflict.

50. Ms. GAITAN DE POMBO welcomed the fact that Senegal had set up a vast institutional, governmental and non-governmental network for the promotion and

protection of human rights. She wondered what specific action had been taken by the Senegalese Human Rights Committee, which was a part of that network, and what steps it had taken during the past year.

51. Regarding the conflict in Casamance, she would like further information on the forced displacements of populations in the subregion and on steps taken to advance the peace process.

52. Mr. SCHEININ thanked the delegation for its oral replies to the many questions raised. He requested further information on the concrete results of efforts undertaken within Senegal to eradicate the practice of female genital mutilation, and on the extent to which the State party had thereby fulfilled its obligations under articles 6, 7 and 9 of the Covenant. He also asked for additional information on the reasons for the high maternal mortality rate and its effect on the prohibition of abortion, noting in particular that abortion was considered an offence under Senegalese law, even in the case of rape or incest. The delegation should therefore specify whether current legislation directly concerned with women's health was not contrary to articles 6 and 7 of the Covenant.

53. Mr. BHAGWATI joined the previous speakers in welcoming the delegation and associated himself with the questions that had already been asked. He requested detailed information on the Higher Council of the Judiciary, referred to in paragraph 3 of the report, such as its composition, how its members were appointed and what its powers, attributions and status were. What were the provisions governing the nomination, length of term of office and revocation of members of the Constitutional Council, Council of State and Court of Cassation? According to paragraph 5 of the report, once international instruments had been ratified by Senegal, they took precedence over national legislation; had the provisions of the Covenant ever been directly invoked before the courts?

54. Following its consideration of the third periodic report of Senegal, the Committee had formulated several recommendations intended to remedy shortcomings in the exercise of human rights in the State party. The Committee had recommended that legislation should be amended so that no one who had been arrested could be kept in detention for four to eight days without the possibility of assistance from a lawyer or a doctor. There was nothing in the present report to indicate that steps had been taken to carry out that recommendation, nor was there any indication that any training on human rights was provided to members of the police forces, military personnel or security agents in charge of protecting the population. He wished to be informed why the Committee's previous recommendations had still not been followed up.

55. Mr. LALLAH thanked the delegation warmly for its frank and detailed replies to the initial questions put to it. Nonetheless, like Mr. El Shafei, he continued to wonder about the origins of the conflict in Casamance and in that context wished to know which ethnic groups supported the MFDC and whether they were the same groups that had previously supported the self-defence militia.

56. Furthermore, during its consideration of the third report, the Committee had drawn attention to article 47 of the Senegalese Constitution, which gave the authorities great latitude in the proclamation of a state of emergency, and it had wondered to what extent that article was compatible with article 4 of the Covenant. The delegation had not provided any explanation on that point and he asked it to provide the necessary details. He wondered why the Government asserted that there was no state of emergency in Casamance, given that many of the rights enshrined in the Covenant were not being respected there. No explanation had apparently been given as to why persons who had been arrested and placed in detention had no access to the services of a lawyer.

57. The CHAIRPERSON invited the delegation to reply to the additional questions raised by the members of the Committee on part I of the list of issues.

58. Mr. Amadou DIOP (Senegal) noted that members of the Committee had welcomed the fact that the delegation's oral presentation had gone well beyond what appeared in the report. The report did indeed take account of the Committee's conclusions upon consideration of the third periodic report (CCPR/C/64/Add.5), and consequently contained more information on practice, but it had been drafted almost a year earlier, and the delegation was therefore anxious to make a presentation which reflected the current situation in Senegal in order to complement the written report.

59. The question of the origin of the situation in Casamance was highly complex. First of all, as in any conflict involving elements of irredentism, the geographical dimension should be borne in mind. Firstly, Casamance was an enclave between Guinea-Bissau and the Gambia, which meant psychological blocks and some obstacles to the movement of persons, goods and capital. Secondly, and more generally, Africa was a vast continent in which the members of a particular ethnic group often lived on both sides of a border. In order to avoid the outbreak of conflicts, since the very beginning of decolonization the Organization of African Unity (OAU) had endorsed the principle of the inviolability of colonial borders. In order to avoid creating a situation of war, the Senegalese authorities were not exercising their right to pursue the Casamance rebels into neighbouring States. Another geographical dimension of the conflict that should be taken into account was the fact that southern Senegal was a thickly forested region well suited to guerrilla activity.

60. Land issues could not in themselves explain the conflict. It was true that the national law authorizing the expropriation of certain Diola lands on the grounds of public interest, and the land distribution system applied by some governors, had created frustration among the local populations, who had then reacted violently. However, there had been a comparable situation in the north, with the construction of a dam on the Senegal River, without it leading to an irredentist movement as in Casamance, even though the populations of the north had also reacted violently to the government measures.

61. The MFDC was demanding the independence of Casamance for historical reasons, claiming that the region had not been a part of Senegal since the fifteenth century. The President of Senegal had in turn said he would fight

on legal grounds and base himself on the testimony of the former colonial Power, which had prepared a report showing that Casamance had always been a part of the socio-geographic area of Senegal.

62. Other factors complicated the situation even more. In particular, at the present time there was a shift of conflicts to West Africa, and armed groups that had taken part in the fighting in Sierra Leone were often to be found in Casamance, stirring up the conflict. Drug and arms traffic was another factor that should be taken into consideration. Some individuals argued that people from the south were inadequately represented in the structures of the State, the administration and public institutions, leading to feelings of frustration.

63. He contrasted the practice of the MFDC, with its daily acts of destabilization and grave exactions against the population and property, with the policy of the authorities, who wanted to ensure respect for the law and refused to be dragged into a war. The authorities wished both to maintain law and order and to ensure the protection of people, and in particular respect for the right to life. There was a constant impetus for peace in Senegal, as evidenced by the existence of several institutions (Committee for Peace, Clerical Committee for the Maintenance of Peace in Casamance and so forth) and the holding of various events, such as the Day for Peace.

64. Generally speaking, the Government was anxious to preserve the social fabric, and its policy was to extend a hand to all Senegalese so that they could build the country together in peace. That was why it welcomed all international mediation activities and had agreed to make a neighbouring State, Guinea-Bissau, the guarantor of the Cacheu accord. In the same spirit, the Senegalese authorities had released a number of detained rebels.

65. Mr. Mandiogou NDIAYE (Senegal) said that the Senegalese themselves did not clearly understand the origins of the conflict in Casamance. He had been public prosecutor in Ziguinchor from 1983 to 1989, at the height of the crisis. Just before he had taken up his post, Abbé Diamacoune Senghor had hosted a programme on government radio explaining the origins of the Diola and the uniqueness of Casamance. That programme had started out by being very interesting, but had gradually proceeded to advocate separatism. In particular, its hosts cited a document supposedly signed by the colonial Power and Senegal on Independence Day, which called for Casamance to become independent at a certain point in time. What that time was, no one knew. Land issues, while not in themselves an explanation, had exacerbated tensions and encouraged the radicalization of persons whose land had been expropriated by legal decision and who felt themselves to have been the victims of discrimination. In December 1982, a crowd had surged into the streets of Ziguinchor, lowered the national flag and raised the white flag known as the flag of Casamance. The crowd had been composed essentially of illiterates who had been fooled by people insisting that they had only to raise the flag of Casamance and throw out the national authorities in order to obtain independence. The Government had then sized up the extent of the movement, and the authorities had arrested and tried several of its presumed leaders and instigators, including Abbé Diamacoune Senghor. While awaiting the court verdict, the authorities had been informed that a meeting of armed individuals was to be held; six gendarmes had been sent to the scene, where they had been

atrociously mutilated before being killed. It should be stated that those gendarmes had included Diola and members of other ethnic groups, as did the staff of all State institutions. With insufficient manpower to arrest the perpetrators of those acts, and pending the arrival of reinforcements from Dakar, the clashes had continued. The security forces had used firearms in responding to the rebel attack. There had been victims on both sides, and some people, fleeing repression, had gone into hiding; it was they who had created the hard core of the movement.

66. It was important to recognize that the Government had acted solely in order to protect the population. In that regard he recalled the many efforts deployed by the Senegalese authorities on behalf of peace in Casamance, which were set forth in paragraphs 116-133 of the report. The army had in no way violated the ceasefire agreements. However, those agreements had not had the expected effect, as the rebel movement had regrouped, new weapons had been brought into the region and the conflict was continuing. He nonetheless assured the Committee that the Government, which had always complied with all the demands made of it by those agreements, was sparing no effort to reach a solution.

67. In reply to the questions raised on extrajudicial executions, disappearances and torture, he again stressed the complexity of the situation in Casamance. In the first place, it was very difficult to dispatch commissions of inquiry to the area, due to security problems. Several Senegalese had recently been killed in Casamance. Foreigners had disappeared, and all the evidence pointed to the fact that they had been abducted and killed by members of the MFDC. The Senegalese themselves found it difficult to understand those acts. He wished to apprise the members of the Committee of his own personal viewpoint, which was that the conflict in Casamance was being fuelled by people profiting from the crisis. He cited in particular the case of an MFDC leader, who was wanted in Senegal but who had settled in France and opened a bank account enabling him to organize the financing of his movement's activities. In his own opinion, that person clearly had no interest in seeing the crisis in Casamance come to an end as he made a living out of it.

68. There were no cases of persons having been detained by the army. Soldiers who made arrests immediately turned the apprehended persons over to the police.

69. He recalled the objectives of the amnesty laws, which were set forth in paragraphs 124-127 of the report. The disappearances and murders in Casamance were entirely attributable to the MFDC, and not to the Government.

70. As to cases of detention without trial, persons detained were arrested not because of their ethnic origins or to restrict their freedom of opinion and expression but because they had committed criminal acts. If the authorities had carried out mass arrests, it was because the attacks had been carried out by crowds. He referred in that regard to paragraphs 105-109 of the report. All those factors showed that the legal procedures existed and were enforced. Although the pre-trial proceedings were protracted, given the large number of accused persons, there was no doubt as to their being concluded. In 1987, when torture had not yet constituted a separate offence

under Senegalese criminal law, some police officers had been sentenced for committing acts constituting torture. Their colleagues had organized a strike to support them and the Government had responded by dismissing the entire police force. That clearly illustrated the fact that torture did not go unpunished in Senegal.

71. The CHAIRPERSON invited the members of the Committee to continue their consideration of the fourth periodic report of Senegal at a subsequent meeting.

The meeting rose at 1 p.m.